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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision:13.02.2019

% **W.P.(C) 13483/2018**

RAM DASS

..... Petitioner

Through: Mr. A.K. Singh, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY & ORS..... Respondent

Through: Mr. Arun Birbal with Mr. Sanjay Singh,
Adv. for DDA.
Mr. Kushagra Pandey, Adv. for R-4.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A.K. CHAWLA

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to assail the order dated 04.09.2018 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 2325/2013. The Tribunal has rejected the said Original Application wherein the petitioner assailed the disciplinary action taken against him by the respondent.
2. The petitioner was issued a charge memorandum dated 13.03.2008 alleging gross negligence in processing a file pertaining to allotment of land

in favour of Housing Society. Departmental Inquiry was held. The Inquiry Officer submitted his report dated 14.05.2009 holding that the charge against the petitioner as partially proved. The disciplinary authority disagreed with that finding, and passed an order dated 17.05.2010, imposing penalty of reduction of pay scale by one stage for a period of one year with cumulative effect with further stipulation that during penalty period, the petitioner will not earn increment. His departmental appeal was rejected.

3. Consequentially, he preferred O.A. No. 3349/2010 before the Tribunal. The said Original Application was allowed on 05.03.2012. The order imposing punishment as well as that of the appellate authority was set aside and the matter remitted back to the respondent for proceeding further in the matter.

4. Pertinently, in respect of the Inquiry Report, no finding was returned that the same was illegal or improper. In the meantime, the petitioner superannuated in 2012. The respondents thereafter passed the impugned order dated 08.02.2013 imposing a penalty of 5% cut in the pension for a period of two years.

5. The submission of learned counsel for the petitioner is that he was made a scapegoat and the higher authorities in the hierarchy, who were responsible for the restoration of allotment, have gone scot free. We cannot appreciate this submission in these proceedings. It was for the petitioner to set up his defence and prove the same in the inquiry proceedings. The finding returned against the petitioner is to the effect that while serving as Dealing Assistant at the relevant point of time, he failed to take notice of the

difference in the signatures on the representation allegedly received on behalf of the society – whose allotment had already been cancelled. Despite the earlier cancellation, the petitioner was found to have not acted with diligence and to have not verified the genuineness of the applicant who sought restoration of allotment. He failed to enquire from the Registrar of Co-operative Societies with regard to the identity of the applicant – who purported to act on behalf of the society. It is on this account that the petitioner has been found guilty and subjected to penalty as aforesaid.

6. The next submission of learned counsel for the petitioner is that even though the earlier order of penalty did not survive, the same has been given its full effect.

7. Mr. Birbal, who appears on advance notice, states that an amount of Rs. 15014/- for the period 12.09.2011 to 16.09.2013 has been released to the petitioner, since the earlier penalty has been recalled.

8. Counsel for the petitioner further submits that his case was not considered for promotion on account of the said first penalty.

9. While upholding the impugned order, we dispose of this petition with a direction to the respondents to consider the aforesaid aspect with regard to denial of promotion to the petitioner, and with regard to release of the entire amount due to the petitioner on account of recall of the penalty initially imposed which was recalled and to pass a reasoned order within 4 weeks, which shall be communicated to the petitioner. In case, the petitioner has any surviving grievance, he may agitate the same before the Tribunal.

10. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J.

A.K. CHAWLA, J.

FEBRUARY 13, 2019

N.Khanna

